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January 7, 1994

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

EX PARTE

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: PR Docket No, 93-61
Automatic Vehicle Monitoring Systems

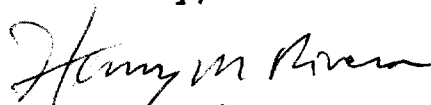
Dear Mr. Caton:

On Friday, January 17, 1994, the undersigned and Rodney Joyce, of this firm, met with Karen Brinkman, of the Chairman's staff, to discuss our client's views and proposed solutions in this proceeding. The attached material used in this meeting was also discussed.

Two copies of this letter are being submitted to the Secretary of the Commission pursuant to § 1.1206(a)(1) of the Commission's Rules.

Please contact the undersigned if you have any questions or require additional information concerning this matter.

Sincerely,


Henry M. Rivera

HMR:lmc
Attachments
cc: Karen Brinkman, Esq.

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081

November 2, 1993

The Honorable James H. Quello
Chairman
Federal Communications Commission
Room 802
1919 M St. NW
Washington, DC 20554

The Honorable Andrew C. Barrett
Commissioner
Federal Communications Commission
Room 844
1919 M St. NW
Washington, DC 20554

The Honorable Ervin S. Duggan
Commissioner
Federal Communication Commission
Room 832
1919 M St. NW
Washington, DC 20554

Re: PR Docket No. 93-61
Automatic Vehicle Monitoring

Dear Chairman Quello, Commissioner Barrett and Commissioner Duggan:

The undersigned manufacturers, users and trade associations are vitally concerned with the future of low power, Part 15 equipment operating on an authorized but unlicensed basis in the 902-928 MHz frequency band. We wish to call your attention to the above-referenced proceeding which proposes to establish a new service in this band, the Location Monitoring Service ("LMS"). It is believed that this proposal, if adopted, will jeopardize the very existence of the Part 15 industry as well as the millions of users that benefit from, and use, Part 15 equipment. At this time, we understand that the LMS proposal will be before you for a vote in December or January.

The undersigned have filed various Comments and Reply Comments, and have visited with the Commission staff concerning this proceeding. The purpose of this letter is not to reargue our positions. Rather, it is to provide you with a very brief synopsis of the record and the problems the undersigned and the Commission

will suffer if the proposals announced in the Notice of Proposed Rulemaking are adopted.

The record in this proceeding unequivocally demonstrates that Part 15 equipment is likely to cause interference to, and receive interference from, the proposed wide-band LMS systems.^{1/} The undersigned are aware of no technical way to eliminate this interference, and the proponents of the technology have offered none. As a result, if the Commission's proposals are adopted, LMS licensees receiving interference from Part 15 devices would have the right to petition the Commission to require the Part 15 equipment to cease operations pursuant to Sections 15.5(b) and (c) of the Rules.^{2/}

Adoption of LMS as proposed in the Notice will cause insurmountable problems. For example, it will have a devastating impact on the hundreds of millions of dollars already invested, and to be invested, in research and development of Part 15 equipment. It will also cause the loss of many American jobs,^{3/} and will

^{1/} Proponents of LMS have argued that Part 15 interests must be ignored in this proceeding on the ground that Part 15 operations are secondary, and, therefore, must accept any interference. While Part 15 is certainly secondary to existing licensed services, it is wrong to suggest that the Commission may not consider the consequences to millions of Part 15 users in creating a new licensed service, like LMS, which greatly expands existing AVM interim rules. To the contrary, we believe the Commission has a statutory obligation to consider the public interest in existing Part 15 operations in reaching any decision about LMS.

LMS proponents also argue that Part 15 interests need not be considered in this proceeding because the Commission's Notice does not propose to change the rules under which Part 15 operates. This argument, likewise, overlooks the fact that even under existing rules, LMS promises to have a major negative impact on Part 15 operations; and, Part 15 users have every right to be heard on this issue and to have their position considered in this proceeding.

^{2/} Part 15 products were expressly encouraged to be developed and use this band several years ago; yet, now the Commission seems inclined to bring LMS systems into the same band, despite clear evidence that interference will result (and the earlier-authorized use will be compelled to give way).

^{3/} It is believed that the specific technology proposed to implement LMS is being developed in foreign countries, and that the equipment developed to deploy LMS will be sourced from Asia. This is in stark contrast to the manufacturing base in the U.S. that
(continued...)

deprive millions of users from employing this highly desirable, robust, efficient and effective equipment. In addition, this action could deny millions of citizens the benefits that Part 15 devices bring to medical applications, protection of life and property, and the implementation of energy efficiency and conservation programs, as well as the advantages of new digital cordless phones and other Part 15 technology operating in this band.^{5/} Finally, adoption of the proposal will enmesh the Commission in a massive and impossible enforcement action as the FCC attempts to resolve complaints dealing with Part 15 devices causing interference to LMS systems.^{5/}

We hope that you find the potential impact of moving forward with PR Docket No. 93-61, as proposed in the Notice of Proposed Rulemaking, as disturbing as we do.^{6/} We ask that you take a hard

^{3/}(...continued)

supports a majority of Part 15 equipment and the U.S.-developed technology -- spread spectrum -- which is the basis of the majority of Part 15 applications. Placing U.S. technology and manufacturing jobs at risk, for the benefit of foreign technology and jobs, makes little sense in any context, and certainly should not be part of a reasoned FCC regulatory decision.

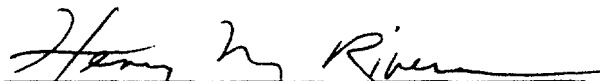
^{4/} The Commission has recently noted the importance of Part 15 devices. See, e.g., Amendment of the Commission's Rules To Establish New Personal Communications Services (Second Report and Order), FCC 93-451 at ¶ 87 (Oct. 22, 1993).

^{5/} The Commission must not lightly take action that renders these mass-market products useless, causing mass confusion and inconvenience to the people who rely on them. The Commission's recent experience with hearing aid compatibility rules is instructive in this regard. The Commission adopted rules that required replacement of millions of business telephone handsets to make them hearing aid compatible. The Commission apparently adopted this rule without fully considering the impact on the thousands of business users whose handsets would have to be replaced. When business users finally learned of the new regulations, only months before they were to take effect, the Commission was deluged with angry letters and phone calls. It became necessary for the Commission to suspend the rule at the last minute, pending a reevaluation of the impact on U.S. business. Access to Telecommunications Equipment and Services by the Hearing Impaired and Other Disabled Persons, 8 FCC Rcd 4958 (1993). The Commission should not make a similar mistake here.

^{6/} No party to this proceeding agrees with the proposal in its entirety. Moreover, the record reflects a myriad of technical deficiencies (beyond the mutual interference issue) for which
(continued...)

look at this proceeding and that you urge the Private Radio Bureau to reconsider the initial proposals in favor of ones which more appropriately balance the needs of both the AVM and Part 15 communities. Representatives of the undersigned will be scheduling appointments to discuss this matter more fully with you and your staff within the next few weeks.

Respectfully submitted,



Henry M. Rivera
Counsel for
METRICOM, INC.

/s/ Steven J. Winick

Steven J. Winick
Vice President
ADEMCO

/s/ John A. Prendergast

John A. Prendergast
Counsel For
ALARM INDUSTRY COMMUNICATIONS COMMITTEE

/s/ Lawrence J. Movshin

Lawrence J. Movshin
Counsel For
DOMESTIC AUTOMATION

/s/ Barbara N. McLennan

Barbara N. McLennan
Staff Vice President, Government and
Legal Affairs
Consumer Electronics Group
ELECTRONIC INDUSTRIES ASSOCIATION

9/ (...continued)

adequate solutions are not apparent. On the record currently before it, the Commission should abandon its efforts to add additional Part 90 users to the 902-928 MHz band and should withdraw its proposal.

/s/ Richard G. Geiger
Richard G. Geiger
Vice President
ITRON, INC.

/s/ Christopher B. Vallani
Christopher B. Vallani, Esquire
President
NAV GUARD, INC.

/s/ Steve Schear
Steve Schear, Chairman
PART 15 COALITION

/s/ William McGreevy
William McGreevy
Vice President, Engineering
RECOTON CORPORATION

/s/ Olin S. Giles
Olin S. Giles
Vice President-Engineering
SENSORMATIC ELECTRONICS CORPORATION

/s/ James B. DeBello
James B. DeBello
President
SOLECTEK CORPORATION

The members of the Part 15 Coalition are: ADEMCO, American Wireless, Amtech Logistics, Axxon/Life Point, California Wireless, California Microwave, Cincinnati Microwave, Cobra Electronics, CYLINK, DAC, Enscan/Itron, Gambatte, Granite Communications, GRE America, Inovonics, Intermec, Metricom, Nav Guard, Persoft, Proxim, Radionics, Real-Time Data, Recoton, ROLM, Salient Communications, Sensormatic, SpectraLink, Spread Spectrum Technologies, Summit Design, Symbol Technologies, Tatung Telecom, Tetherless Access, Uniden Engineering Services, Utilicom, Voyager Technologies, Western Multiplex, Wise Communications and Xircom.

/s/ Henry M. Rivera
Henry M. Rivera
Counsel for
SOUTHERN CALIFORNIA EDISON CO.

/s/ Mitchell Lazarus
Mitchell Lazarus
Counsel For
SYMBOL TECHNOLOGIES, INC.

/s/ Richard Heller
Richard Heller, President
Wireless Communication Systems
TELXON CORPORATION

/s/ Wray C. Hiser
Wray C. Hiser
Associate General Counsel
THOMPSON CONSUMER ELECTRONICS, INC.

/s/ Jeffrey H. Sheldon
Jeffrey L. Sheldon
General Counsel
UTILITIES TELECOMMUNICATIONS COUNCIL

cc: Thomas P. Stanley, Chief Engineer
Office of Engineering and Technology

Ralph A. Haller, Chief
Private Radio Bureau

Mr. William F. Caton
Acting Secretary



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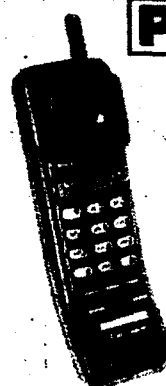
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FCC NEARING THORNY SPECTRUM RULING; PCS MAY BE DRAGGED INTO DISPUTE

The Federal Communications Commission is close to drafting a final decision on allocating spectrum in the 900 MHz band, and some sources contend that the decision, sure to be controversial, could lead to friction with companies that want to bid on spectrum to offer personal communications services (PCS). The FCC will decide, probably next month, whether a company known as Teletac will be able to retain its current use of frequencies in the 900 MHz band to offer vehicle monitoring services.

At this time, PacTel owns a 51% interest in Teletac, but PacTel will be spun off from Pacific Telesis Group during the first quarter of next year. This would allow Teletac to move to a nationwide vehicle monitoring system (*Washington Telecom Week*, Aug. 27, p. 1).

Competitors of Teletac contend that permitting the company to retain its spectrum "exclusivity" would be an insult to companies that will have to pay a lot of money to acquire spectrum for PCS under an auctioning process.

It had appeared that this multi-faceted controversy was to be on the agenda for FCC's Dec. 13 meeting. But sources said this week that a final report and order now is likely in January. It appears that the FCC may find a middle ground for resolving the dispute.

Teletac has contended that there is no middle ground when it comes to shifting frequencies to make room for other companies to offer similar services. Two of the companies that oppose Teletac's bid to retain its current use of spectrum are Amtech and Pinpoint, both based in Dallas. Teletac officials have said that any shift at all in frequencies would require Teletac to remove tracking equipment that already has been installed in vehicles, and this apparently would be prohibitive for the company.

However, it does not appear that the FCC views this matter as an "either-or" proposition. "There could be one or more parties that have to redesign their equipment," one informed source said. "The claim is not being made that everyone can be accommodated without absolutely no pain. But there is a way to divide spectrum that will allow everyone to do what they want to do." He declined to elaborate.

In addition to its dispute with companies such as Amtech and Pinpoint, Teletac is also in the midst of a separate controversy with a group of manufacturing companies called the Part 15 Coalition. The coalition is backed by powerful groups such as the Telecommunications Industry Association (TIA), the Electronic Industry Association and the North American Telecommunications Association. The coalition is made up of equipment manufacturers that comply with FCC rules known as Part 15. It maintains that the commission's notice of proposed rulemaking would lead to degraded service for cordless phones and other devices that operate in the 902-928 MHz spectrum.

TIA is coordinating tests so that new data can be presented to the FCC to bolster its case. However, one informed source said that the commission may not need more information presented for the record to make its decision. In addition, it appears that the Part 15 Coalition and Teletac are trying to reach a settlement on the issue of spectrum. But similar negotiations apparently are not taking place between Teletac, Amtech and Pinpoint.

The Part 15 issue is politically more difficult to resolve than the dispute between Amtech and Teletac because of the large number of devices that will eventually be on the air, according to an informed source. He said there are ways to resolve the dispute between Teletac and Amtech, although one or both companies may not prevail in every regard. But figuring out how to make cordless phones produced by Part 15 companies coexist with automatic vehicle monitoring (AVM) services of Teletac is more difficult, he said.

Almost 90 entities have filed petitions in this proposed rulemaking, so the dispute is not limited to Teletac, Amtech, Pinpoint and the Part 15 Coalition. But these players make up a significant portion of the dispute. A source close to both Amtech and Pinpoint said the technology used by these companies is very compatible with the Part 15 industry. While Amtech and Pinpoint are being represented by the same law firm (Wiley, Rein and Fielding in Washington, D.C.), there is no corporate tie between the two companies. Amtech is publicly traded and Pinpoint is a private company.

The Amtech proposal calls for sharing throughout the 902-928 MHz band and the creation of low-powered sub-bands to accommodate Teletac, according to the source close to the company. He said that Teletac has not looked kindly on a proposal that would share the whole band, despite some special provisions making certain parts of the band more compatible to Teletac's operations. The source also said that Amtech has on occasion helped customers to change frequencies so that there is no negative interaction with Teletac services, but that Teletac is not making modifications to its system.

The source said that Teletac "is trying to make a big spectrum grab, and the commission has to be very careful before they bless it." He said that if the commission grants exclusivity for nationwide AVM services to Teletac, other companies that want to offer PCS services, such as specialized mobile radio (SMR) operating on the 900 MHz band, could be very upset. "That would ring a lot of bells," he said. It would mean

that an SMR operation using the 900 MHz band would have to pay handsomely for spectrum through the auctioning process while Teletrac would not, according to the source. "The commission is probably quite sensitive to exclusivity and auctions," he said.

However, a Teletrac source said this week that PCS and sections should not be dragged into the dispute. The spectrum that Teletrac has in the 904-912 MHz band, for example, is very noisy whereas the spectrum allocated for PCS is very clean, the source said, adding: "You do not have exclusivity in the 904-912 band by any stretch of the imagination."

The source close to Amtech and Pinpoint said that if Teletrac is willing to change its view on the issue of exclusivity, a deal could somehow be brokered between the competing companies. "That is the greatest sticking point," he said. "I have not heard that Teletrac is willing to pursue something different. They feel sharing cannot work." -- Joe Bury

AMTECH SAYS BATTLE OVER SPECTRUM HINGES ON 'EXCLUSIVITY'

The battle between Teletrac and Amtech over spectrum for offering vehicle monitoring and identification systems boils down to one word in the eyes of Amtech: exclusivity. Amtech contends that if the Federal Communications Commission permits Teletrac to retain its use of frequencies in the 900 MHz band, Amtech's ability to provide automatic vehicle identification (AVI) services would be greatly impaired. Teletrac, on the other hand, contends that "exclusivity" is not a real issue in the dispute.

A source close to Amtech said that Teletrac has revealed that the company is only using 4 MHz of spectrum to offer automatic vehicle monitoring (AVM) services. Yet Teletrac is telling the commission that it will need 8 MHz ultimately to deal with future incarnations of its system, the source said. But even if the commission would limit Teletrac to 4 MHz, that would not satisfy Amtech as long as Teletrac retains "exclusivity" in the band, the source said. "Even giving 4 MHz on an exclusive basis would not be good," he said. "But Teletrac could share with others. That could be a germ of a solution."

The source added: "I would expect the commission to do something to respond to Teletrac, but giving 8 MHz of spectrum nationwide to do what it wants is a tall order. A lot of what Teletrac wants sounds like narrowband personal communications services. The problem is that Teletrac has asked for exclusivity, and nationwide." Teletrac officials contend that while the company needs 8 MHz, Amtech would need at least 12 MHz.

Teletrac officials say it would cost the company a good bit of money if its frequencies were shifted to places Amtech and others that want to use the 902-928 MHz band. Teletrac has cast the growing controversy in the light of an AVM industry being killed if the frequencies are shifted.

Teletrac strongly disagrees with the assertion that it wants exclusive spectrum to offer AVM services. By saying that Teletrac wants exclusivity, "it sounds like Teletrac is being the spectrum hog, but the real hog is the Amtech system," a source close to Teletrac said. The source said that in the 904-912 MHz band, where Teletrac is now licensed, Amtech's so-called "coltech" system could operate, although it would have to be shut down if it caused harmful interference. The band is also used by others, including government users, and this is not exclusivity, according to Teletrac. The Teletrac official said the Amtech system is a "terrible spectrum hog" because it sends a signal to a tag, which reflects the signal all over the spectrum. This signal is high powered and bounces into Teletrac's signal.

Pinpoint, another company that is philosophically in line with Amtech on this issue, is also meeting strong resistance from Teletrac, according to a source close to the company. The source said that Pinpoint is willing to share spectrum with local area systems. The antennas of Pinpoint operations are directed toward the ground in order to read a tag on a windshield of a vehicle, such as when the car goes through a toll booth. This causes less interference than if the antennas are directed more broadly.

The source pointed out that on some Oklahoma interstate highways, for example, cars can drive through a toll area and automatically pay the toll at 65 mph because of the Pinpoint systems. Pinpoint, like Amtech, is based in Dallas. The trade name for Pinpoint's system is the Array Network. Pinpoint uses a wideband system to "interrogate" the vehicle.

Pinpoint has concluded that this type of system does not present a big problem for Teletrac. But Teletrac sees it differently.

Industry observers had thought that the commission would hand down a final report and order at its December meeting, which is scheduled for Dec. 13. They are therefore somewhat skeptical that a final rule will be promulgated in January. But they say the commission is likely to deal with the issue during an open meeting since it has become so controversial. "It has assumed a much higher profile than envisioned at first," the source said.